

THE HONORABLE ROBERT S. LASNIK

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

MARK R. PERCIVAL as the Administrator of
the Estate of Marion R. Wilson, deceased;
and WILLIAM L.E. DUSSAULT as
Litigation Guardian ad Litem of R.S.C. and
S.D.C, minor children,

Plaintiffs,

V.

GENERAL ELECTRIC COMPANY, a New
York corporation; ALL-CLAD
METALCRAFTERS, L.L.C; a Delaware
corporation; and ALBERT LEE, INC., d/b/a
ALBERT LEE APPLIANCE, a Washington
corporation,

Defendants.

NO. CO9-1802 RSL

**DECLARATION OF WILLIAM J.
LEEDOM IN SUPPORT OF
DEFENDANT ALL-CLAD'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT DISMISSAL OF
PLAINTIFFS' NEGLIGENT
INFLICTION OF EMOTION
DISTRESS CLAIMS**

WILLIAM J. LEEDOM, upon penalty of perjury, declares as follows:

1. I am one of the attorneys for Defendant All-Clad Metalcrafters, L.L.C. I am
over the age of 18, competent to testify as to the facts stated herein, and make this declaration
based on my personal knowledge.

2. Attached as Exhibits are true and correct copies of the following:

DECLARATION OF WILLIAM J. LEEDOM IN
SUPPORT OF DEFENDANT'S MOTION FOR
PARTIAL SUMMARY JUDGMENT DISMISSAL –
CO9-1802RSL Page 1

LAW OFFICES
BENNETT BIGELOW & LEEDOM, P.S.
1700 Seventh Avenue, Suite 1900
Seattle, Washington 98101
T: (206) 622-5511 / F: (206) 622-8986

1 Exhibit 1: Plaintiffs' Complaint for Damages, filed June 19, 2009.

2 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE
3 STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.
4

5 DATED this 3rd day of February, 2010.
6

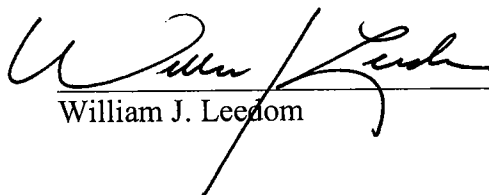
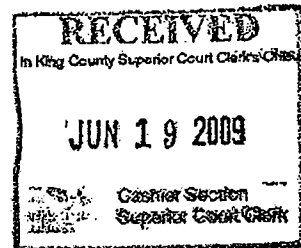
7
8 
9 William J. Leedom
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT 1



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MARK R. PERCIVAL as the Administrator of
the Estate of Marion R. Wilson, deceased;
and WILLIAM L.E. DUSSAULT as
Litigation Guardian ad Litem of R.S.C. and
S.D.C, minor children,

Plaintiffs,

V.

GENERAL ELECTRIC COMPANY, a New
York corporation; ALL-CLAD
METALCRAFTERS, L.L.C; a Delaware
corporation; and ALBERT LEE, INC., d/b/a
ALBERT LEE APPLIANCE, a Washington
corporation,

Defendants.

NO. 09-2-23306-3 KNT

COMPLAINT FOR DAMAGES

PLAINTIFFS ALLEGE AS FOLLOWS:

I. PARTIES

I. Plaintiff Mark R. Percival, who is a resident of Ohio, is the duly appointed

COMPLAINT FOR DAMAGES -- 1

RECEIVED
JUL 7 2009
RAY BONANNI

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8325 Fax: 206/223-8224

1 Administrator of the Estate of Marion R. Wilson, deceased, and by order of the Probate Court of
2 Stark County, Ohio, dated October 3, 2008 (Case No.204217) is authorized to commence and
3 maintain this action on behalf of the Estate of Marion R. Wilson and the statutory beneficiaries.
4 Decedent is survived by her adult children Fred Scott Wilson, Martha Core, and Marion Rose Rich.

5 2. Plaintiff William L.E. Dussault, a resident of King County, is the duly appointed
6 Litigation Guardian ad Litem of R.S.C. and S.D.C., minor children by Order of the Superior Court of
7 King County dated May 1, 2009 (Cause No. 09-4-02381-3 KNT). Pursuant to said Order, William
8 L.E. Dussault is authorized to commence and maintain this action on behalf of R.S.C. and S.D.C.
9 (R.S.C. and S.D.C. are the grandsons of decedent Marion R. Wilson.)

10 3. Defendant General Electric Company is a foreign corporation incorporated under the
11 laws of the State of New York. General Electric Company (hereinafter "G.E.") was at all relevant
12 times doing business in Washington State by designing, engineering, testing, manufacturing,
13 exporting, importing, marketing, distributing and/or selling products in Washington State.

14 4. Defendant All-Clad Metalcrafters, L.L.C. is a foreign corporation, incorporated under
15 the laws of the State of Delaware with a principal place of business in Canonsburg, Pennsylvania.
16 All-Clad Metalcrafters, L.L.C. (hereinafter "All-Clad") was at all relevant times doing business in
17 Washington State by designing, engineering, testing, manufacturing, exporting, importing marketing,
18 distributing, and selling products in Washington State.

19 5. Defendant Albert Lee, Inc. d/b/a, Albert Lee Appliance (hereinafter Albert Lee) is a
20 corporation organized and existing under the laws of the State of Washington, with a principal place
21 of business located in Tukwila, King County, Washington. The defendant regularly conducts
22 business in Washington State.

23 II. JURISDICTION AND VENUE

24 COMPLAINT FOR DAMAGES - 2

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 300
Seattle WA 98101
Ph: 206/621-8325 Fax: 206/723-8224

7. Defendant All-Clad was at all relevant times doing business in Washington State by exporting, importing, marketing, distributing, advertising, and selling consumer goods and products including the exporting, importing, marketing, distributing, advertising, and selling of cookware including griddles in Washington State.

8. Defendant Albert Lee was at all relevant times doing business in Washington State by exporting, importing, marketing, distributing, advertising, and selling consumer goods and products including the exporting, importing, marketing, distributing, advertising, and selling of kitchen appliances in Washington State.

9. This court has jurisdiction over the parties and the subject matter of this action pursuant to RCW 4.28.185.

15 10. Venue is proper in King County pursuant to RCW 4.12.025 because Defendant Albert
16 Lee transacts business, has offices for the transaction of business, and transacted business in King
17 County, Washington at the time this cause of action arose.

III. FACTS

11. On July 24, 2008, Marion Wilson was visiting her daughter Martha Core in Everett, WA. During that morning while preparing pancakes using an All-Clad griddle at the Cores' home in Everett, Marion Wilson's clothing caught on fire from the flames emanating from the General Electric Profile cooktop (Model No. JGP963SEJ1SS) in the Core home. Her 12 year old and 13

COMPLAINT FOR DAMAGES - 3

**LAW OFFICES OF
JAMES S. ROGERS**
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/221-8224

1 year old grandsons saw her burning from the fire. Once the fire was extinguished, and paramedics
2 arrived at the Core home, Marion Wilson was transported to the hospital. As a result of the fire,
3 Marion Wilson sustained serious burns ultimately resulting in her death on September 5, 2008.

4
5 **IV. CLAIM FOR RELIEF**

6 **FIRST CAUSE OF ACTION**
7 **(General Electric Corporation)**

8 12. Plaintiffs reallege the allegations made in paragraphs 1-11 and incorporate the same
9 by reference as though fully set forth herein.

10 13. In violation of the Washington Product Liability Act, RCW 7.72, et seq., at the time
11 the General Electric Profile gas cooktop left the control of the manufacturer, it was defective and not
12 reasonably safe for reasons that include, but are not limited to, the following:

13 a. The General Electric Profile gas cooktop was not reasonably safe in its design,
14 including but not limited to the following:

- 15 i. The proximity of the front of the burner to the edge of the counter;
- 16 ii. Improper ventilation for flame performance; leads to flame roll-out;
- 17 iii. Flame roll-out will not go toward operator if shape of top panel is
18 changed.

19 b. The General Electric Profile gas cooktop was unsafe to an extent beyond that
20 which would be contemplated by an ordinary user;

21 c. At the time of manufacture, the likelihood that the General Electric Profile gas
22 cooktop would cause injury or damage similar to that suffered by Plaintiff, and the seriousness of
23 such injury or damage, outweighed the burden on the manufacturer to design a cooktop that would

24 COMPLAINT FOR DAMAGES -- 4

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/233-8224

1 have prevented Marion Wilson's injuries and outweighed the adverse effect that an alternative design
2 that was practical and feasible would have on the usefulness of the General Electric Profile gas
3 cooktop;

4 d. The General Electric Profile gas cooktop was not reasonably safe because
5 adequate warnings or instructions were not provided with the cooktop about the risks, dangers, and
6 harms presented by the cooktop, including but not limited to warnings related to use of cookware on
7 the cooktop, and in the instructions provided with the cooktop;

8 e. The General Electric Profile gas cooktop was not reasonably safe because
9 adequate warnings or instructions were not provided after the cooktop was manufactured; and

10 f. The likelihood that the General Electric Profile gas cooktop would cause
11 injuries similar to Marion Wilson's injuries and the seriousness of those injuries rendered the
12 warnings or instruction of the manufacturer inadequate, and the manufacturer could have provided
13 adequate warnings or instructions.

14 14. As a direct and proximate result of the tortious conduct of Defendant G.E.,
15 Marion Wilson sustained serious injuries leading to her death and resulting in damages to
16 Plaintiffs.

17 15. The General Electric Profile gas cooktop was not reasonably safe because it did not
18 conform to the manufacturer's express warranties and implied warranties.

20 SECOND CAUSE OF ACTION
21 (All-Clad Metalcrafters, L.L.C.)

22 16. Plaintiffs reallege the allegations made in paragraphs 1- 15 and incorporate the same
23 by reference as though fully set forth herein.

24 COMPLAINT FOR DAMAGES - 5

LAW OFFICES OF
JAMES S. ROGERS
1300 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 17. In violation of the Washington Product Liability Act, RCW 7.72, et seq., at the time
2 the All-Clad griddle left the control of the manufacturer, it was defective and not reasonably safe for
3 reasons that include, but are not limited to, the following:

4 a. The All-Clad griddle was not reasonably safe in its design including but not
5 limited to its failure to allow for proper ventilation and circulation of air flow when used on a
6 cooking appliance, including the G.E. cooktop;

7 b. The All-Clad griddle was unsafe to an extent beyond that which would be
8 contemplated by an ordinary user;

9 c. At the time of manufacture, the likelihood that the All-Clad griddle would
10 cause injury or damage similar to that suffered by Marion R. Wilson and the Plaintiffs, and the
11 seriousness of such injury or damage, outweighed the burden on the manufacturer to design a griddle
12 that would have prevented Marion Wilson's injuries and Plaintiffs' damages, and outweighed the
13 adverse effect that an alternative design that was practical and feasible would have on the usefulness
14 of the All-clad griddle;

15 d. The All-Clad griddle was not reasonably safe because adequate warnings or
16 instructions were not provided with the griddle about the risks, dangers, and harms presented by the
17 griddle, including but not limited to warnings related to its use on the General Electric gas cooktop;

18 e. The All-Clad griddle was not reasonably safe because adequate warnings or
19 instructions were not provided after the griddle was manufactured; and

20 f. The likelihood that the All-Clad griddle would cause injuries similar to
21 Marion Wilson's injuries and the seriousness of those injuries rendered the warnings or instruction of
22 the manufacturer inadequate, and the manufacturer could have provided adequate warnings or
23 instructions.

24 COMPLAINT FOR DAMAGES - 6

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 As a direct and proximate result of the tortious conduct of Defendant All-Clad, Marion
2 Wilson sustained serious injuries leading to her death and resulting in damages to Plaintiffs.

3 18. The All-Clad griddle was not reasonably safe because it did not conform to the
4 manufacturer's express warranties and implied warranties.

5
6 THIRD CAUSE OF ACTION
(Albert Lee, Inc.)

7
8 19. Plaintiffs reallege the allegations made in paragraphs 1- 18 and incorporate the same
9 by reference as though fully set forth herein.

10 20. Defendant Albert Lee, Inc. was at all times material hereto engaged in the sale,
11 distribution, and marketing of consumer appliances for the home including the subject General
12 Electric Profile gas cooktop purchased by Martha Core and her husband Robert Core.

13 21. Defendant Albert Lee, Inc. had a duty to use reasonable care to provide products
14 which would be safe when used.

15 22. Defendant Albert Lee, Inc. knew or should have known that its products would be
16 purchased and used by consumers who expected the products to be safe.

17 23. As a retailer/seller of kitchen appliances to the general public, Defendant Albert
18 Lee, Inc. had a duty to use reasonable care to provide information and warnings to
19 consumer/users, regarding hazards associated with the use or operation of the General Electric
20 Profile gas cooktop of which it was aware, or should have been aware in the exercise of
21 reasonable care.

22 24. Defendant Albert Lee, Inc. knew or should have known that the General Electric
23 Profile gas cooktop was not reasonably safe.

24 COMPLAINT FOR DAMAGES - 7

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

1 25. Defendant Albert Lee, Inc. breached its duty to Plaintiffs and decedent by failing
2 to instruct or warn as to the hazards associated with operating the General Electric Profile gas
3 cooktop at the time of the sale of the subject cooktop.

4 26. Defendant Albert Lee, Inc. was negligent in selling a cooktop which it knew or
5 should have known was dangerous and not reasonably safe.

6 27. As a direct and proximate result of the tortious conduct of Defendant Albert Lee,
7 Inc. Marion Wilson sustained serious injuries leading to her death and resulting in damages to
8 Plaintiffs.

9 28. The General Electric Profile gas cooktop was not reasonably safe because it did
10 not conform to defendant's express warranties or to the implied warranties under Title 62A
11 RCW.

12 FOURTH CAUSE OF ACTION
13 (Negligent Infliction of Emotional Distress)

14 29. Plaintiffs reallege the allegations made in paragraphs 1- 28 and incorporate the same
15 by reference as though fully set forth herein.

16 30. Defendants negligently inflicted emotional distress upon R.S.C. and S.D.C., minor
17 grandchildren of Marion R. Wilson, by failing to design a reasonably safe cooktop and griddle
18 and by failing to provide adequate warnings or instructions with the cooktop and griddle about
19 the risks, dangers, and harms presented by the cooktop and griddle, especially when used
20 together. R.S.C. and S.D.C. suffered extreme and severe emotional distress as they witnessed
21 their grandmother being engulfed by fire as a result of using the subject products.

22
23 V. PROXIMATE CAUSE/DAMAGES

24 COMPLAINT FOR DAMAGES – 8

LAW OFFICES OF
JAMES S. ROGERS
1500 Fourth Avenue, Suite 500
Seattle WA 98101
Ph: 206/621-8525 Fax: 206/223-8224

32. As a direct and proximate result of the above-described incident, the statutory beneficiaries have sustained and will continue to sustain a loss of love, affection, care, services, companionship, society, and consortium of Marion Wilson.

WHEREFORE, plaintiffs pray for judgment as follows:

1. For general damages as shall be determined at the time of trial;
2. For special damages to be shown at the time of trial, including all pre-judgment interest allowed by law; and
3. Such other and further relief as is appropriate under the pleadings and the proof.

LAW OFFICES OF JAMES S. ROGERS

James S. Rogers, WSBA #5335
William H. Wacenter, WSBA No. 20602
Attorneys for Plaintiffs

COMPLAINT FOR DAMAGES - 9